

**Remarks**

This Amendment is in response to the Office Action dated **August 16, 2004**. In the Office Action claims 25-26 and 43 were judged as not reading upon the elected species. Additionally, claims 25-26 and 43 were rejected under 35 USC §112. Claims 23, 29-36, and 38-39 were rejected under 35 USC 102(b) as being anticipated by St. Germain et al (5,534,007). Claims 27, 37, and 40-42 were rejected under 35 USC 103(a) as being unpatentable over St. Germain et al. Applicant has amended claim 23. Claims 25-26 and 43 have been amended. Claims 30-31 have been cancelled without prejudice or disclaimer. No new matter has been added. The claim rejections will be addressed under headings consistent with those of the Office Action.

**Election/Restriction**

In the Office Action claims 25-26 and 43 were judged as not reading upon the elected species. The instant claims as originally filed claimed dependence upon now withdrawn claim 1 or now cancelled claim 24. Applicant asserts that these claims as amended herein should be included in the elected species as their dependence is from independent claim 23 of the elected species. Applicant has amended claims 25-26 and 43 such that they claim dependence on claim 23. Applicant respectfully requests that the restriction of these dependent claims be withdrawn in light of the amendments.

**35 USC §112**

In the Office Action claims 25-26 and 43 were rejected under 35 USC §112. Applicant has amended these claims such that they do not depend from a cancelled or withdrawn claim. Applicant respectfully requests that the rejection be withdrawn.

**35 USC 102(b)**

In the Office Action claims 23, 29-36, and 38-39 were rejected under 35 USC 102(b) as being anticipated by St. Germain et al (5,534,007). As indicated above claim 23 recites "the inner surface region further defining a substantially hollow neck portion in communication with the first portion of the substantially hollow chamber and the second portion of the

substantially hollow chamber, the neck portion comprising a neck portion diameter, the neck portion diameter tapering from the inner diameter of the first portion to the inner diameter of the second portion". St. Germain does not teach or suggest this limitation.

The Office Action cites fig. 3 and col. 3, lines 44-47 of St. Germain to illustrate a tapered neck portion. Applicant does not recognize a taper as claimed in fig. 3 and additionally points out that the tapering of col. 3, lines 44-47 of St. Germain is referring to the retracting member 45. The retracting member 45 is a pull back wire or such which is not defined by the inner surface region as claimed in claim 23.

For at least this reason Applicant believes amended claim 23 overcomes the 102(b) rejection and is in condition for allowance. Additionally, applicant believes claims 29-36 and 38-39 are allowable for at least the reason that these claims depend on amended claim 23 which is believe to be in condition for allowance.

### **35 USC 103(a)**

In the Office Action claims 27, 37, and 40-42 were rejected under 35 USC 103(a) as being unpatentable over St. Germain et al. As discussed above St. Germain does not teach or suggest all of the elements of independent claim 23. Because claim 23 as presented herein is not obvious in light of St. Germain neither are those claims which depend therefrom. For this reason, the rejection to claims 27, 37, and 40-42 is respectfully overcome. Applicant requests that the 103(a) rejection of claims 27, 37, and 40-42 be withdrawn.

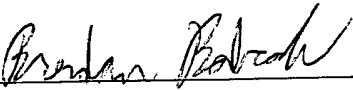
**Conclusion**

In view of the foregoing it is believed that the present application, with claims 23, 25-27, 29, and 32-43 is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

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